

REMARKS

Prior to this Amendment, Claims 13-19 were pending and under consideration. With this amendment, Claim 13 has been cancelled and Claim 14 is being amended. No claims have been added. Thus, upon entry of the Amendment, Claims 14-19 remain pending and under consideration.

I Amendments to the Claims

Claim 13 has been cancelled, without prejudice against its reintroduction into this or one or more related applications.

Claim 14 has been amended for technical clarity and to recite the transitional term “consisting of” in order to reduce the issues going forward. Support for the amendments are found in the specification on page 4, line 18 through page 5, line 19.

No new matter is added by way of amendment. Entry into the application is therefore requested.

II Rejections Under 35 U.S.C. § 112, ¶ 2: Indefiniteness

Claim 13 stands rejected for indefiniteness under 35 USC 112, ¶ 2. Claim 13 has been cancelled, thereby rendering the rejection moot.

III Rejections Under 35 U.S.C. § 112, ¶ 2: Enablement

Claims 13, 14, and 17-19 stand rejected under 35 U.S.C. § 112 second paragraph for alleged lack of enablement. The rejection is moot as applied to cancelled Claim 13 and traversed with respect to Claims 14 and 17-19.

Claim 14 has been amended to recite that the claimed oligopeptide is within the specified sequence and includes the triad YYW at the amino acid residue positions 84, 85, and 86 on the specified sequence. Amended Claim 14 merely restates the claimed oligopeptide per the specification, and makes explicit what was implicit in the rejected claim.

Although Applicant disagrees with the stated basis for the rejection and maintain that the claims are enabled for a compound “comprising” the recited oligopeptide for reasons already of record, Claim 14 has been amended to use the transitional term “consisting of” to advance the

application to allowance. This amendment is consistent with the Patent Office's position for enablement of compounds consisting of oligopeptides of SEQ ID NOs: 3-56. Given the stated function of the oligopeptide, the number of exemplary bioactive oligopeptides provided in the disclosure, and the amendment to Claim 14, it is submitted that the full scope of the claim is enabled. Since Claims 17 and 19 depend from Claim 14, these dependent claims are enabled for at least the same reasons. Accordingly, withdrawal of the nonenablement rejection is respectfully requested.

IV Rejections Under 35 U.S.C. § 102(e): Anticipation

Claim 13 is rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,723,128. The rejection is moot in light of the cancellation of Claim 13. Applicant also notes that the reference does not anticipate Claim 14 since it fails to teach or suggest a bioactive oligopeptide having the triad YYW at amino acid residue positions 84, 85, and 86 of the disclosed amino acid sequence.

V Conclusion

Applicant submits that the claims under examination satisfy all of the statutory requirements for patentability and are in condition for allowance. An early notification of the same is kindly solicited. If the Patent Office believes that there are further unresolved issues, Applicant encourages the Patent Office to contact the undersigned attorney with any questions or concerns by telephone at (415) 781-1989.

No fees beyond those included with this response is believed due. However, the Commissioner is authorized to charge any additional required fees, including fees for extensions of time, or credit any overpayment to Dorsey & Whitney LLP Deposit Account No. 50-2319 (File No. 465840-00078; Docket No. A-61008-1).

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Respectfully submitted,

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